

26 U.S.C. § 7201
Individual - Separate Return
Attempt to Evade and Defeat Tax
Venue in District of Filing

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the _____ day of _____, 19__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] to the United States of America for the calendar year **1** 19__, by filing and causing to be filed with the Director, Internal Revenue Service Center, at [*City*], [*State*], **2** a false and fraudulent U.S. Individual Income Tax Return, Form 1040, wherein he [she] stated that his [her] taxable income **3** for the calendar year **1** 19__, was the sum of \$____, and that the amount of tax due and owing thereon was the sum of \$____, whereas, as he [she] then and there well knew and believed, his [her] taxable income **3** for the said calendar year **1** was the sum of \$____, upon which said taxable income **3** there was owing to the United States of America an income tax of \$ _____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19_".

2 When appropriate, substitute "by filing and causing to be filed with the District Director of the Internal Revenue Service for the Internal Revenue District of _____, at _____"; or "by filing and causing to be filed with the Representative of the District Director of the Internal Revenue Service for the Internal Revenue District of _____, at _____".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, his [her] taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Separate Return
Attempt to Evade and Defeat Tax
Venue in District of Preparation

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the ____ day of _____, 19__, in the _____ District of _____, [Defendant's Name], a resident of [City], [State], did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] to the United States of America for the calendar year 1 19__, by preparing and causing to be prepared, and by signing and causing to be signed, 2 a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service, wherein he [she] stated that his [her] taxable income 3 for said calendar year 1 was the sum of \$____, and that the amount of tax due and owing thereon was the sum of \$____, whereas, as he [she] then and there well knew and believed, his [her] taxable income 3 for the said calendar year 1 was the sum of \$____, upon which said taxable income 3 there was owing to the United States of America an income tax of \$____. 4

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19_".

2 Where venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, his [her] taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Joint Return
Attempt to Evade and Defeat Tax
Venue in District of Filing

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the _____ day of _____, 19__, in the _____ District of _____ [*Defendant's Name*], a resident of [*City*], [*State*], who during the calendar year **1** 19__ was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] and his [her] spouse to the United States of America for the calendar year **1** 19__, by filing and causing to be filed with the Director, Internal Revenue Service Center, at [*City*], [*State*], **2** a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself [herself] and his [her] spouse, wherein it was stated that their joint taxable income **3** for said calendar year **1** was the sum of \$_____, and that the amount of tax due and owing thereon was the sum of \$_____, whereas, as he [she] then and there well knew and believed, their joint taxable income **3** for the said calendar year **1** was the sum of \$_____, upon which said joint taxable income **3** there was owing to the United States of America an income tax of \$_____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19__".

2 When appropriate, substitute "with the District Director of the Internal Revenue Service for the Internal Revenue District of _____, at _____"; or "with the Representative of the District Director of the Internal Revenue Service for the Internal Revenue District of _____, at _____".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, their joint taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional joint taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Joint Return
Attempt to Evade and Defeat Tax
Venue in District of Preparation

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the ____ day of _____, 19__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], who during the calendar year **1** 19__ was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] and his [her] spouse to the United States of America for the calendar year **1** 19__, by preparing and causing to be prepared, and by signing and causing to be signed, **2** a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself [herself] and his [her] spouse, which was filed with the Internal Revenue Service, wherein it was stated that their joint taxable income **3** for said calendar year **1** was the sum of \$____, and that the amount of tax due and owing thereon was the sum of \$____, whereas, as he [she] then and there well knew and believed, their joint taxable income **3** for the said calendar year **1** was the sum of \$____, upon which said joint taxable income **3** there was owing to the United States of America an income tax of \$____.

4

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19_".

2 If venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, their joint taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional joint taxable income a substantial additional tax was due and owing to the United States of America." See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Community Property Return
Attempt to Evade and Defeat Tax

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the ____ day of _____, 19__, in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] to the United States of America for the calendar year **1** 19__, by preparing and causing to be prepared, and by signing and causing to be signed, **2** a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service, wherein he [she] stated that his [her] taxable income **3** for said calendar year, **1** computed on the community property basis, was the sum of \$_____, and that the amount of tax due and owing thereon was the sum of \$_____, whereas, as he [she] then and there well knew and believed, his [her] taxable income **3** for the said calendar year **1**, computed on the community property basis, was the sum of \$_____, upon which said taxable income **3** there was owing to the United States of America an income tax of \$_____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19_".

2 If venue is to be placed in the judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, his [her] taxable income for the said calendar year, computed on the community property basis, was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Community Property Return of Spouse
Attempt to Evade and Defeat Tax

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the _____ day of _____, 19__, in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], who during the calendar year **1** 19__, was married to [***Name of Spouse***], did willfully attempt to evade and defeat a large part of the income tax due and owing by the said [***Name of Spouse***] to the United States of America for the calendar year **1** 19__, by preparing and causing to be prepared, and by signing and causing to be signed, **2** a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service for and on behalf of the said [***Name of Spouse***], in which it was stated that his [her] taxable income **3** for said calendar year **1**, computed on the community property basis, was the sum of \$_____, and that the amount of tax due and owing thereon was the sum of \$_____, whereas, as [***Defendant's Name***] then and there well knew and believed, the taxable income **3** of [***Name of Spouse***] for the said calendar year **1**, computed on the community property basis, was the sum of \$_____, upon which said taxable income **3** there was owing to the United States of America an income tax of \$_____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19_".

2 If venue is to be placed in the judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, the taxable income of [*Name of Spouse*] for the said calendar year, computed on the community property basis, was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Attempt to Evade and Defeat Tax
Acts Subsequent to Filing
United States v. Beacon Brass Co., Inc., 344 U.S. 43 (1952)

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the _____ day of _____, 19__, in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] to the United States of America for the calendar year 1 19__, by [***Describe Act or Acts, e.g., Filing False Financial Statement, or Making False Statements or Representations to Employees of the Internal Revenue Service, etc. See Spies v. United States, 317 U.S. 492 (1943)***], for the purpose of concealing additional unreported taxable income received by [***Defendant's Name***] during the said calendar year 1, on which said unreported taxable income, as he [she] then and there well knew and believed, there was due and owing to the United States of America an income tax of

\$_____ [***Insert Amount of Tax Deficiency, Not Total Tax***]. 2

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19__".

2 If it is determined that unreported tax is not to be numerically alleged in the indictment, then delete "an income tax of \$_____." and substitute "a substantial additional tax". See ***United States v. Citron***, 783 F.2d 307, 314-15 (2d Cir. 1986); ***United States v. Buckner***, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. ***United States v. Marashi***, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Spies Evasion, No Return Filed
Attempt to Evade and Defeat Tax, Affirmative Acts,
***Spies v. United States*, 317 U.S. 492 (1943)**

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
)	
_____)	

The grand jury charges:

That during the calendar year **1** 19__, [***Defendant's Name***], a resident of [***City***], [***State***], had and received taxable income **2** in the sum of \$____; that upon said taxable income **2** there was owing to the United States of America an income tax of \$____; that well-knowing and believing the foregoing facts, [***Defendant's Name***], on or about April 15, 19__, **3** in the_____ District of _____, did willfully attempt to evade and defeat the said income tax due and owing by him [***her***] to the United States of America for said calendar year **1** by failing to make an income tax return on or before April 15, 19__, **3** as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said income tax, and by [***set forth the affirmative act(s) of evasion, such as concealing and attempting to conceal from all proper officers of the United States of America his [her] true and correct income***]. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19__." Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C. § 6072(a).

2 For definition of taxable income, *see* 26 U.S.C., § 63. Note also 26 U.S.C. § 61, *et seq.*

3 Note that if April 15th fell on a Saturday, Sunday, or legal holiday, the filing date to charge in the indictment would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note also that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

4 *See Spies v. United States*, 317 U.S. 492, 499 (1943).

26 U.S.C. § 7201
Individual - Spies Evasion (No Return Filed)
Attempt to Evade and Defeat Tax
Husband and Wife Codefendants - Community Property

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
)	
_____)	

The grand jury charges:

That during the calendar year **1** 19__, the defendants [**Husband's Name**] and [**Wife's Name**], who were husband and wife, and who were residents of [**City**], [**State**], had and received taxable income, **2** computed on the community property basis, in the sum of \$____ and \$____, respectively; that upon said taxable income **2** there was owing to the United States of America by each defendant an income tax of \$____ and \$____, **3** respectively; that well-knowing and believing the foregoing facts, [**Husband's Name**] and [**Wife's Name**], on or about April 15, 19__, **4** in the _____ District of _____, did willfully attempt to evade and defeat the said income tax due and owing **5** by each of them to the United States of America for said calendar year **1** by failing to make separate individual income tax returns or a joint individual income tax return on or before April 15, 19__, **4** as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said income taxes, and by [**Set Forth the Affirmative Act(s) of Evasion Done by or on Behalf of Each Defendant, Such as Concealing and Attempting to Conceal from all Proper Officers of the United States of America his [her] [their] True and Correct Income; See *Spies v. United States*, 317 U.S. 492, 499 (1943).**]

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 19__". Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).

2 For definition of taxable income, *see* 26 U.S.C., § 63. Note also 26 U.S.C., Secs. 61, *et seq.*

3 Include total tax liability, without regard to wage withholding.

4 Note that if April 15th fell on a Saturday, Sunday, or legal holiday, the filing date to charge in the indictment would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note also that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

5 If there has been income tax withholding, add before "said income tax", either "a substantial part of", or "a large part of", or "a part of" or "a portion of."

6 This form, with bracketed wording "concealing and attempting to conceal", was approved in *United States v. Edwards*, 777 F.2d 644, 650 (11th Cir. 1985), *cert. denied*, 475 U.S. 1123 (1986); *See also, United States v. Nelson*, 791 F.2d 336, 338 n.3 (5th Cir. 1986) for list of cases approving underlined language of concealment.

26 U.S.C. § 7201
Individual - Attempt to Evade
and Defeat the Payment of Tax

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the ____ day of _____, 19_, **1** in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], did willfully attempt to evade and defeat the payment of a large part of the income tax due and owing by him [her] to the United States of America for the calendar year **2** 19_, in the amount of \$____, by [***Set Forth the Affirmative Acts Constituting the Willful Attempt, Such as the Following: Concealing and Attempting to Conceal From the Internal Revenue Service the Nature and Extent of His [her] Assets and the Location Thereof; Making False Statements to Agents of the Internal Revenue Service; Placing Funds and Property in the Names of Nominees; Placing Funds and Property Beyond the Reach of Service of Process; etc.***].

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 The Seventh Circuit has held that an indictment may use the April 15 return due date, even though not all the acts of evasion of payment occurred on that date. *See United States v. Conley*, 826 F.2d 551, 558-559 (7th Cir. 1987). Moreover, the "attempt" may consist of a course of conduct. If so, substitute "on or about the ____ day of _____, 19__, and continuing to _____".

2 If fiscal year is involved, substitute "fiscal year ended _____, 19__"; if more than one year's tax is involved, substitute "for the years _____ through _____".

26 U.S.C. § 7201
Corporation, Officer, or Employee - Corporate Return
Attempt to Evade and Defeat Corporate Tax

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the ____ day of _____, 19__, in the _____ District of _____, [***Defendant's Name***], **1** who was the [***Position Held in Corp.***] of [***Name of Corporation***], a corporation, did willfully attempt to evade and defeat a large part of the income tax due and owing by the said corporation to the United States of America for the calendar year **2** 19__, by preparing and causing to be prepared, and by signing and causing to be signed, **3** a false and fraudulent U.S. Corporation Income Tax Return, Form 1120, which was filed with the Internal Revenue Service on behalf of said corporation, wherein it was reported that the taxable income of said corporation for the said calendar year **2** was the sum of \$____, and that the total amount of tax due and owing thereon was the sum of \$____, whereas, as he [she] [it] then and there well knew and believed, the taxable income of [***Name of Corporation***] for the calendar year **2** 19__, was the sum of \$____, upon which taxable income there was due and owing to the United States of America a total tax of \$____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

- 1** If the corporation is named as the defendant, substitute the name of the corporation.
- 2** If fiscal year is involved, substitute "fiscal year ended _____, 19_".
- 3** If venue is to be placed in the judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".
- 4** If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] [it] then and there well knew and believed, the taxable income of the said corporation for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Corporation - Attempt to Evade and Defeat Corporate Tax
Acts Subsequent to Filing
United States v. Beacon Brass Co., 344 U.S. 43 (1952)

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the _____ day of _____, 19__, in the _____ District of _____, [*Defendant's Name*] 1 who was the [*Position Held in Corp.*] of [*Name of Corporation*], a corporation, did willfully attempt to evade and defeat a large part of the income tax due and owing by the said corporation to the United States of America for the calendar year 2 19__, by [*Describe Act or Acts; e.g., Filing False Financial Statement, Making False Statements and Representations to Employees of the Internal Revenue Service, etc. See Spies v. United States, 317 U.S. 492 (1943)*], for the purpose of concealing additional unreported taxable income received by said corporation during the said calendar year 2, on which said unreported taxable income, as he [she] [it] then and there well knew and believed, there was due and owing to the United States of America an income tax of \$ _____. [*Insert Amount of Corporation's Tax Deficiency, Not Total Tax*]. 3

In violation of Title 26, United States Code, Section 7201.

A True Bill.

 Foreperson

 United States Attorney

NOTES

1 If the corporation is named as the defendant, substitute the name of the corporation.

2 If fiscal year is involved, substitute "fiscal year ended _____, 19_".

3 If it is determined that unreported tax is not to be numerically alleged in the indictment, then delete "an income tax of \$_____", and substitute "a substantial additional tax". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Sole Proprietorship or Partnership
Employer's Quarterly Return
Attempt to Evade and Defeat
Federal Withholding and F.I.C.A. (Social Security Taxes)

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the _____ day of _____, 19__, in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], who conducted a business **1** as a [***Sole Proprietorship or Partnership***] under the name and style of _____, with its principal place of business in [***City***], [***State***], did willfully attempt to evade and defeat a large part of the federal income taxes withheld from wages and Federal Insurance Contributions Act taxes due and owing to the United States of America for the quarter ending _____, 19__, by preparing and causing to be prepared, and by signing and causing to be signed, **2** a false and fraudulent Employer's Quarterly Federal Tax Return, Form 941, which was filed with the Internal Revenue Service, wherein it was stated that the total wages subject to withholding paid to employees by [***Name of Business***] for the said quarter was the sum of \$_____, and that the total amount of federal income tax withheld and social security taxes due and owing thereon was the sum of \$_____, whereas, as he [she] [it] then and there well knew and believed, the total wages subject to withholding paid to employees for said quarter was the sum of \$_____, upon which wages there were due and owing to the United States of America federal income taxes withheld from wages and social security taxes in the total amount of \$_____.

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If employer is a corporation, refer to Forms - 25 as a guide in charging appropriate corporate officials with attempting to evade and defeat taxes due from corporation.

2 If venue is to be placed in judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

26 U.S.C. § 7201
Sole Proprietorship or Partnership - Excise Tax Return
Attempt to Evade and Defeat Excise Tax

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.	)	No. _____
	)	26 U.S.C., § 7201
_____)	

The grand jury charges:

That on or about the ____ day of _____, 19__, in the _____ District of _____, [***Defendant's Name***], **1** a resident of [***City***], [***State***], who conducted a retail **2** business as a [***Sole Proprietorship or Partnership***] under the name and style of _____, with its principal place of business in [***City***], [***State***], did willfully attempt to evade and defeat a large part of the retail dealer's **3** excise tax on [***Article***], imposed by Section ____ of the Internal Revenue Code (Title 26), due and owing to the United States of America for the quarter ending **4** _____, 19__, by preparing and causing to be prepared, and by signing and causing to be signed, **5** a false and fraudulent Quarterly Federal Excise Tax Return, **6** which was filed with the Internal Revenue Service on behalf of said retail **2** business, wherein it was stated that the excise tax due and owing to the United States of America by reason of the retail **2** sale of [***Article***] for said quarter **4** was the sum of \$_____, whereas, as he [she] [it] then and there well knew and believed, there was due and owing to the United States of America for the said quarter, **4** retail dealer's **3** excise tax in the sum of \$_____.

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If a corporation is named as the defendant, substitute the name of the corporation.

2 Designate appropriate business, *e.g.*, manufacturing.

3 For other excise taxes, *see* 26 U.S.C., § 4041, *et seq.*

4 Designate appropriate period.

5 If venue is to be placed in judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

6 Designate appropriate IRS form.